



Appeal Decision

Site visit made on 26 April 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/A4710/W/22/3312860

The Delvers, Cold Edge Road, Wainstalls, Halifax HX2 7UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by D Halliday against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 21/01267/FUL, dated 14 September 2021, was refused by notice dated 25 July 2022.
 - The development proposed is a detached dwelling
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at The Delvers, Cold Edge Road, Wainstalls, Halifax HX2 7UA in accordance with the terms of the application, Ref 21/01267/FUL, dated 14 September 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Replacement Calderdale Unitary Development Plan, Adopted 25 August 2006 and as amended by Direction of the Secretary of State, 3 August 2009 has been replaced by the Calderdale Local Plan 2018/19 – 2032/33, adopted March 2023. I have considered the various Local Plan policies that have been submitted in considering all matters raised and the suggested conditions but in the interests of being concise, I have specifically only referred to those that are most relevant to this proposal.
3. The planning application was refused on the grounds that it was inappropriate development in the Green Belt, that it would cause harm to the openness of the Green Belt, and that no very special circumstances existed to overcome the harm that would be caused. However, since then the Council has adopted a new Local Plan and the site has been taken out of the Green Belt. The Council refer to what was then an emerging Local Plan and state that if significant weight is given to the policies within it then it would be unable to sustain the reason for refusal. As the Local Plan now carries the full status of an adopted development plan, I consider that the reason for refusal is no longer relevant.

Main Issue

4. Whilst the site is no longer in the Green Belt and therefore local and national Green Belt policies are not applicable, a number of third party representations have been made. I have considered the various matters raised by local people but consider that the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site includes the former Public House (PH), The Delvers and land associated with it. The site is located at a junction between Wainstalls Road and Cold Edge Road at the southern end of the village. The proposed house would sit alongside the former PH, which is now a dwelling, and would be accessed from Wainstalls Road. The Delvers would retain its access from Cold Edge Road.
6. In addition to The Delvers, the nearest properties to the appeal site are No 5 Wainstalls Road and a Grade II Listed Wesleyan Chapel and Sunday School, now Nos 1 and 3 Wainstalls Road. These are all residential properties and form a grouping at the southern end of the village.
7. The proposed dwelling would be traditional in appearance with stone walls and slate roof. It would be two-storey with an attached/integral garage and not dissimilar in proportions and scale to the adjacent former PH. Whilst slate roofs may not be traditional in this Pennine mill village (many of the roofs are of stone tiles), the natural stone facing is characteristic of the area. Also, whilst the proposed house would differ in detailing compared to some of the older properties, most notably the former Chapel/Sunday school, its traditional design would relate well to the adjacent building and the overall character of the village. Furthermore, the proposal would be sited some distance from the main body of the village and so any differences in detailing would not be unduly out of place.
8. Some stone walling would need to be removed to provide the access and the proposal would involve the removal of hedgerows and the replacement with 2 metre high timber fencing. Such a fence could appear quite stark especially along the northern boundary where the appeal site adjoins open fields. However, boundary treatment need not appear stark and satisfactory details of boundary treatments could be secured through a condition.
9. Part of the character of the area is the nearby Listed Chapel and Sunday School. This is described as a Grade II Listed Wesleyan Chapel and includes a Sunday School. It has now been converted into two residential properties. As it is a Listed Building, I have had regard to the statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The significance of this heritage asset is its historical context as a village Chapel and Sunday School.
10. However, the Listed Building is on the other site of Wainstalls Road and is converted into two residential properties with their own garden space. The proposal would not change the essential character of its setting or affect its significance as a heritage asset.
11. The proposed dwelling would appear as part of the group of dwellings including the Delvers and Nos 1, 3 and 5 Wainstalls Road. For the reasons set out above and taking into account the surrounding rural area and the relationship between the appeal site and the village generally, I do not consider that the character or appearance of the area would be harmed by the proposed dwelling. As such, the proposal would not conflict with Local Plan Policy BT1 which, amongst other things, requires development to respect or enhance the

character or appearance of existing buildings and surrounding, taking into account local context and distinctiveness, including any heritage assets.

Other Matters

12. The proposed dwelling would create a new access onto Wainstalls Road by demolishing a section of a low stone wall. The reference in the Council's delegated report to the area being subject to a 20mph speed limit is incorrect and signage clearly indicates a 30mph speed limit. However, visibility splays are dependent on actual speeds as opposed to speed limits and, in its statement, the Council expresses the view that the required visibility splays could be achieved. Whilst concern has been expressed about extra traffic on the road, I have no substantive evidence that the traffic generated by one dwelling would result in harm to highway safety. Accordingly, from the evidence submitted and from my observations, I am satisfied that adequate visibility splays can be provided that would ensure that highway safety would not be harmed as a result of traffic entering and leaving the proposed access.
13. I appreciate that the outlook from the front windows of No 5 Wainstalls Road would look towards the side gable wall of the proposed house. However, this would be across the road and of sufficient distance not to be unduly harmful. Furthermore, whilst No 5 would be opposite the proposed house, the distance between the two properties would be sufficient to ensure that no loss of privacy would occur especially as the only window in the gable of the proposed house facing No 5 would be a bathroom window.
14. Likewise, the occupiers of the converted Chapel and Sunday School, Nos 1 and 3 Wainstalls Road, would be able to see the proposed house but are sufficiently far away so that no harm would be caused to their living conditions. All three of these neighbouring properties currently benefit from views of the surrounding countryside and any visual impact resulting from the proposal would be minimal in this landscape.
15. Reference is made to the site being within a Site of Special Scientific Interest (SSSI) and a Special Protection Area of Conservation. However, I have no details of these designations. Indeed, the Council state that the site is not subject to any specific habitat designations and therefore, does not consider that the proposal would harm the habitat requirements of legally protected, rare or threatened wildlife species. The Council has suggested that in the interest of biodiversity gain, a permanent swift and/or bat nesting feature could be sought through a condition of any approval.
16. I am satisfied that the proposal would not conflict with Local Plan Policy HS1 which amongst other things, requires that new residential development does not create unacceptable environmental, amenity, traffic safety or other problems.

Conditions

17. I have considered the conditions suggested by the Council in the light of the Framework¹ and Planning Practice Guidance². I have amended the wording of

¹ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

² Planning Practice Guidance, Published 6 March 2014 – Last Updated 23 July 2019.

some of the conditions in order to be more concise and taking into account the tests set out in the Framework and the PPG.

18. In addition to the standard time limit condition, a condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.
19. A condition in relation to construction materials is necessary in order to achieve a satisfactory appearance. A separate condition requiring specific details of window reveals is suggested but I do not consider that this is necessary and so in the interests of conciseness, I have included window details in the requirements to seek approval for the other external construction materials.
20. Details of site levels; landscaping works; and boundary walls and fencing are necessary in order to achieve a satisfactory appearance. The provision of appropriate visibility splays at the site entrance and a scheme to prevent mud or materials being deposited on the highway during construction works are necessary to ensure safe access and in the interests of highway safety.
21. A condition requiring bat/bird roosting features is reasonable and necessary in order to secure ecological enhancement and net biodiversity gain in accordance with the Framework. Also, a condition requiring any removal of hedgerow to be carried out outside the bird nesting season is necessary to protect any active bird nests if present.
22. A condition is suggested requiring foul and surface water drainage incorporating separate foul and surface water drainage systems is necessary in order to ensure that the development incorporates appropriate drainage. I have amalgamated the three conditions suggested by the Council into one to cover all drainage requirements.
23. A condition is suggested requiring the bathroom window in the western elevation to be obscurely glazed and top opening only in order to protect the privacy of the occupiers of No 5 Wainstalls Road. Notwithstanding that this window would serve a bathroom only and is shown on the submitted plan as being obscurely glazed, I see no justifiable reason for the suggested condition given that the neighbouring property is on the other side of the road and is of sufficient distance to avoid any undue loss of privacy. The suggested condition is not therefore necessary.
24. A condition requiring the car parking area and manoeuvring space to be provided before the development is brought into use and retained thereafter is not necessary as the approved plans indicate enough space for parking and manoeuvring and space at the site is not so limited as to result in vehicles being unable to park there.
25. A condition is suggested withdrawing permitted development rights for various works including, extensions, alterations, ancillary buildings and hardsurfacing. However, I do not consider that such a condition is reasonable or necessary to protect the village setting or to protect the living conditions of the occupiers of neighbouring properties, given the limitations that apply to the relevant permitted development rights.
26. A condition requiring the installation of an electrical facility for charging batteries for electric powered vehicles is not necessary as this is covered by separate legislation under the Building Regulations.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

J D Clark

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - *Drawing Nos: - 1359/1 Rev B & 1359/2.*
- 3) No development shall take place until a scheme for the prevention of mud or other material being deposited on the public highway, including full details of any equipment on site used to clean the hardstanding areas, access, wheels and chassis of vehicles, equipment location and means of drainage, has been submitted to and approved in writing by the Local Planning Authority. The permitted scheme shall be implemented on commencement of works in accordance with the approved details and retained for the duration of the construction works.
- 4) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. These shall include walls, roofing and windows. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 6) Development shall not commence until drainage works for separate systems of drainage for foul and surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage and external works for the development have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the dwelling and retained thereafter.
- 7) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) Any clearance works associated with the approved scheme and the removal of any hedgerow shall be carried out outside the bird nesting season of March to September (inclusive). If it is necessary to carry out work in the nesting season, then a pre-commencement inspection of the

vegetation for active bird nests shall be carried out. If vegetation cannot be clearly seen to be clear of bird nests, then an experienced ecologist shall be called in to carry out the check. Only if there are no active nests present shall work be allowed to commence.

- 9) Notwithstanding the approved plans, prior to the commencement of any above groundwork, details of visibility splays at the site entrance shall be submitted to and approved in writing by the Local Planning Authority. The visibility splays shall be provided prior to the first occupation of the dwelling in accordance with the approved details and retained thereafter.
- 10) Notwithstanding the approved plans, no new site boundary works shall be constructed until details of the height and materials of any boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The works shall be constructed in accordance with the approved details prior to the first occupation of the dwelling and retained thereafter.
- 11) No above ground works shall take place until details of bat and bird roosting facilities have been submitted to and approved in writing by the Local Planning Authority. The works shall be constructed in accordance with the approved details prior to the first occupation of the dwelling hereby approved and shall be retained thereafter.